

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

ROBERT POSTON

*

Plaintiff

*

v.

*

Civil Action No. 1:05-cv-02951-WMN

JAMES AND JOANNE KENNEDY

*

Defendants

*

* * * * *

MOTION TO DISMISS FOR LACK OF SERVICE

Defendants, James Kennedy and Joanne Kennedy, by their counsel, David W. Skeen and Wright, Constable & Skeen, LLP, move pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for an order dismissing this action in its entirety as to Defendants James and Joanne Kennedy.

1. Plaintiff requested that no summons be issued, no summons was ever issued, and no summons or complaint was ever served on Defendants via the methods required by Maryland law.

2. The grounds for the Motion to Dismiss are that the Defendants were not properly served with process for over 120 days under Maryland Rule 2-507(b). The Court cannot entertain jurisdiction over the action without proper service under Maryland law.

3. The legal points and authorities in support of this Motion to Dismiss are more fully set forth in the attached Memorandum in Support of

Motion to Dismiss filed herewith, the full text of which is adopted and incorporated herein by reference.

WHEREFORE, for good cause shown Defendants respectfully move this Honorable Court to enter an order granting its Motion to Dismiss and granting such further relief, as this Court deems equitable and just.

/s/
David W. Skeen #01084

/s/
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of November 2005, a copy of Defendants' Motion to Dismiss for Lack of Service and Memorandum in Support were served via electronic filing and/or mailed, first class, postage prepaid, to:

Michael Mehring
Shugarman & Mehring
10 N. Calvert Street
Baltimore, MD 21202

/s/
David W. Skeen